

This is a general information letter regarding electricity and gas taxes. See 86 Ill. Adm. Code 511.110, 470.110 and 471.105. (This is a GIL.)

July 15, 2005

Dear Xxxxx:

This letter is in response to your correspondence dated November 19, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your correspondence you have stated and made inquiry as follows:

What is the maximum utility tax for electric and gas?

DEPARTMENT'S RESPONSE:

In general, the Electricity Excise Tax Law imposes a State tax on the privilege of using in this State electricity purchased for use or consumption. See 86 Ill. Adm. Code 511.110. The base and rate of tax is dependent upon the type of supplier from which electricity is obtained. The tax rate for electricity obtained from a municipal system or electric cooperative is the lesser of .32 per kilowatt hour or 5% of the purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted, and delivered by such municipal system or electric cooperative to the purchaser. For electricity obtained from all other suppliers, the tax rate is imposed at varying amounts based upon the number of kilowatt hours used or consumed within this State. See 86 Ill. Adm. Code 511.110(b). Please note, the State tax rate for a self-assessing purchaser is 5.1% of the self-assessing purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. See Section 511.110(c).

The State of Illinois imposes a Gas Revenue Tax upon persons engaged in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale, a tax at the rate of 2.4 cents per therm of all gas distributed, supplied, furnished, sold or transported

to or for each customer, or 5% of the gross receipts received from each customer, whichever is the lower rate as applied to each customer for that billing period. Please see 86 Ill. Adm. Code 470.110.

For purchases of out-of-State gas not subject to Gas Revenue Tax, The Gas Use Tax is a tax imposed upon the privilege of using in this State gas obtained in a purchase of out-of-State gas at the rate or rates set forth in the Act. See 86 Ill. Adm. Code 471.105. The self-assessing purchaser rate is the lower of 2.4 cents per therm or 5% of the purchase price for the billing period. Purchasers of out-of-State gas may elect an alternative tax rate of 2.4 cents per therm. See 86 Ill. Adm. Code 471.110.

It is important to note that the above stated State taxes are in addition to any local taxes and fees that may apply. Please note that the Department does not administer these local taxes and cannot provide you with a legal interpretation regarding the administration of these taxes. We can provide you with some general information regarding the imposition of such taxes. Local electricity taxes can be imposed under subsection (3) of 65 ILCS 5/8-11-2 and is limited to the amount per kilowatt hour set out in that subsection. Local gas taxes may be imposed under subsection (2) and (2a) of 65 ILCS 5/8-11-2 up to the maximum amount of 5% or 8% depending upon the population limits set out in those subsections.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk